



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 28, 1995

Ms. Lan P. Nguyen
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR95-148

Dear Ms. Nguyen:

You have asked whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 31195.

The City of Houston (the "city") received a request for a police offense report concerning an automobile theft. The requestor was charged with the offense and, according to information supplied this office, is awaiting prosecution for the offense. You state that the city has released the "Public Release Information Sheet" but has withheld the "Non-Public Current Information Report." You contend that the requested report is excepted from disclosure pursuant to sections 552.103 and 552.108 of the Government Code.

Section 552.108 excepts from disclosure:

- (a) A record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . ; [and]
- (b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement.

When applying section 552.108, this office distinguishes between cases that are still under investigation and those that are closed. Open Records Decision No. 611 (1992) at 2. In cases that are still under investigation, section 552.108 excepts from disclosure

all information except that generally found on the first page of an offense report. Open Records Decision No. 127 (1976). Section 552.108 is applicable while the case is being investigated until it is closed through prosecution. Attorney General Opinion MW-446 (1982) at 2.

However, first page offense report information must be released regardless of where it is located. In *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177, 186-87 (Tex. Civ. App.--Houston [15th Dist.] 1975), *writ ref'd n.r.e. per curiam*, S.W.2d 559 (Tex. 1976), the court identified certain types of information which are public. Although this information is generally found on the first page of an offense report, its location is not determinative. To determine what information must be released, the type of information must be examined rather than where it is located. See Open Records Decision No. 127 (1976) at 5.

You also contend that the report is excepted from disclosure pursuant to section 552.103. As we have indicated, the city may withhold all but first page offense report information from the requestor under section 552.108. Section 552.103(a) does except from disclosure first page offense report information when a suspect has been charged. Open Records Decision No. 597 (1991). In Open Records Decision No. 597 (1991), this office reasoned that because section 552.103(a) does not except from disclosure information made available to the other party in litigation, first page offense information must be made available once a suspect has been charged:

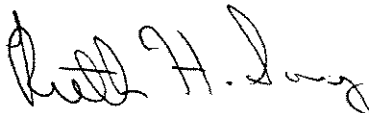
Soon after a suspect is arrested, he is to be brought before a magistrate who must inform him of the nature of the charge against him, and the magistrate must inform him of affidavits filed in regard to the charge. Also, an indictment must be sufficient to give notice of the particular charges against a defendant. . . . [T]here is no information in the basic offense report that would not have been made known to the defendants either by a magistrate or in an indictment.

Open Records Decision No. 597 (1991) at 3. (citations omitted). First page offense report information may not be withheld from disclosure under 552.103(a) because the suspect in this situation has been charged with the offense and informed of the basic nature of the charges.

The city may withhold from disclosure all of the records at issue except for the first page offense report information. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records.

If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Ruth H. Soucy".

Ruth H. Soucy
Assistant Attorney General
Open Government Section

RHS/MAR/rho

Ref.: ID# 31195

Enclosures: Submitted documents

cc: Mr. Bobby Evans
PN 1400405
701 North San Jacinto Street
Houston, Texas 77002
(w/o enclosures)